

ESTTA Tracking number: **ESTTA323965**

Filing date: **12/23/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

| | |
|---------------------------|--|
| Proceeding | 91192828 |
| Party | Defendant Ina Garten LLC |
| Correspondence Address | NANCY DICONZA FROSS ZELNICK LEHRMAN & ZISSU, P.C. 866 UNITED NATIONS PLZ NEW YORK, NY 10017-1822 UNITED STATES |
| Submission | Answer |
| Filer's Name | John Margiotta |
| Filer's e-mail | jmargiotta@fzlz.com, ndiconza@fzlz.com |
| Signature | /John P. Margiotta/ |
| Date | 12/23/2009 |
| Attachments | 09 12 23 - Applicant's Answer to Notice of Opposition (F0559091).PDF (3 pages)(999384 bytes) |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 77/526,128

Mark: BAREFOOT CONTESSA

Filed: July 18, 2008

CONTESSA PREMIUM FOODS, INC.,

Opposer,

-against-

INA GARTEN LLC,

Applicant.

Opposition No. 91192828

APPLICANT’S ANSWER TO NOTICE OF OPPOSITION

Applicant Ina Garten LLC (“Applicant”), a New York company having a place of business at 46 Newtown Lane, East Hampton, New York 11937, as and for its answer to Opposer’s Notice of Opposition, by and through its counsel Fross Zelnick Lehrman & Zissu, P.C., states as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1 of the Notice of Opposition.
2. Denies the allegations contained in Paragraph 2 of the Notice of Opposition, except admits that it filed United States Trademark Application Serial No. 77/526,128 (the “Application”), and avers that the Application speaks for itself.
3. Admits the allegations contained in Paragraph 3 of the Notice of Opposition.
4. Denies the allegations contained in Paragraph 4 of the Notice of Opposition.
5. Denies the allegations contained in Paragraph 5 of the Notice of Opposition.

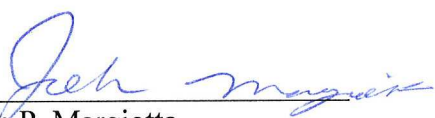
6. Denies the allegations contained in Paragraph 6 of the Notice of Opposition.
7. Denies the allegations contained in Paragraph 7 of the Notice of Opposition.
8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the Notice of Opposition.
9. Admits that Applicant has averred an intent to use the BAREFOOT CONTESSA mark in connection with certain goods in the United States, but denies the remaining allegations contained in Paragraph 9 of the Notice of Opposition.
10. Denies the allegations contained in Paragraph 10 of the Notice of Opposition.

WHEREFORE Applicant requests that the Notice of Opposition be dismissed with prejudice in its entirety and that the Trademark Trial and Appeal Board grant to Applicant such other and further relief as it deems just and proper.

Dated: New York, New York
December 23, 2009

FROSS ZELNICK LEHRMAN
& ZISSU, P.C.

By: _____


John P. Margiotta
Michael Chiappetta
866 United Nations Plaza
New York, New York 10017
Tel: (212) 813-5900
Fax: (212) 813-5901

Attorneys for Applicant
Ina Garten LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the APPLICANT'S ANSWER TO NOTICE OF
OPPOSITION was sent by prepaid first-class mail this 23rd day of December, 2009 to:

J.D. Harriman II, Esq.
DLA Piper LLP
1999 Avenue of the Stars, Fourth Floor
Los Angeles, CA 90067



John P. Margiotta